

## **REMARKS**

This is a full and timely response to the outstanding final Office Action mailed March 1, 2006 (Paper No. 20060217). Upon entry of this response, claims 1-3, 7-10, 13-17, 19-23, 25-27, 29-31, and 33-49 are pending in the application. In this response, claims 1, 16, and 30 have been amended, claims 43-49 have been added, and claims 4-6, 11-12, 18, and 32 have been cancelled. Applicants respectfully request that the amendments being filed herewith be entered and request that there be reconsideration of all pending claims.

### **1. New Matter Objection**

The Office Action alleges that a feature added to claim 1 in the last response (“wherein the at least one resource includes resources not currently existing”) is not supported in the original disclosure, and requires Applicants to cancel this alleged new matter. While respectfully disagreeing with the allegation in the Office Action, Applicants have amended claim 1 to delete the objected-to feature, and request that the objection be withdrawn.

### **2. Claim Objections**

Claim 1 is objected to because of an informality, specifically the term “works” in line 8 of claim 1 is suggested to be changed to “work”. Claim 1 has been amended to delete the objected-to language. Applicants respectfully submit that the objection has been overcome, and request that the objection be withdrawn.

### **3. Rejection of Claims 1-15 under 35 U.S.C. § 112, First Paragraph**

Claims 1-15 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically, the Office Action states that “[t]he specification fails to support the invention as now claimed including the limitation of ‘wherein

the at least one resource includes resources not currently existing'." (Office Action, section 5, p.

3.) Independent claim 1 has been amended to delete the rejected language. Applicants submit that the amendment overcomes the rejection of claims 1-15, and request that the rejection be withdrawn.

4. Rejection of Claims 1-15 under 35 U.S.C. § 112, Second Paragraph

Claims 1-15 have been rejected under 35 U.S.C. §112, second paragraph, as alleged being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as their invention. Specifically, the Office Action states that independent claim 1 has insufficient antecedent basis for "the at least one resource." (Office Action, section 6, p. 4.) Independent claim 1 has been amended to delete the rejected language. Applicants submit that the amendment overcomes the rejection of claims 1-15, and request that the rejection be withdrawn.

5. Rejection of Claims 1-6, 9-10, 14-19, 22-23, 27, 30-33, 36-37, and 41-42 under 35 U.S.C. §102 (Anticipation)

Claims 1-6, 9-10, 14-19, 22-23, 27, 30-33, 36-37, and 41-42 have been rejected under §102(b) as allegedly anticipated by *Blue Pumpkin I-V (Internet Archive)*. Applicants respectfully submit that the rejection has been overcome by claim amendments made herein. A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

a. Claims 1, 16, and 30

Claim 1 has been amended to recite "wherein each agent profile comprises a group of agents having similar characteristics, and defining comprises specifying the characteristics,

including at least one capability, at least one performance measure, and at least one attribute specifying a change in the number of agents in the group during a specified time period.” Claims 16 and 30 have been amended to recite “at least one attribute specifying a change in the number of agents in the group during a specified time period” Applicants respectfully submit that *Blue Pumpkin I-V (Internet Archive)* fails to teach, disclose or suggest an “attribute specifying a change in the number of agents in the group during a specified time period” as recited in amended claims 1, 16, and 30.

*Blue Pumpkin I-V (Internet Archive)* teaches each profile includes a list of agents, and that agents can be added this list. However, the specific feature claimed in amended claims 1, 16, and 30 is an additional attribute of an agent or employee profile. The claimed feature relates not to adding actual instances of agents to a profile, but to specifying a change in the number of agents/employees in the profile. Thus, *Blue Pumpkin I-V (Internet Archive)* fails to disclose, teach or suggest this agent/employee attribute feature, and amended claims 1, 16, and 30 are therefore not anticipated by *Blue Pumpkin I-V (Internet Archive)*.

Amended claims 1, 16, and 30 are allowable over *Blue Pumpkin I-V (Internet Archive)* for the separate and independent reason that claims 1, 16, and 30 as amended recite additional features from dependent claims 5, 18, and 22, related to iteratively adding agents to schedules and calculating effects of the adding. For example, claim 1 has been amended to recite “iteratively adding additional agents from one of the agent profiles to the proposed schedule and iteratively calculating effects of adding the additional agents taking into account each agent already added until the available work for every agent in the plurality of agent profiles has been distributed.” Claims 16 and 30 have been amended to recite “iteratively adding additional employees from the at least one profile to the proposed schedule and iteratively calculating

effects of adding the additional employees taking into account each employee already added until the available work for every employee from the at least one profile has been distributed.”

In the rejection of dependent claims 5, 8, and 22, the Office Action stated that *Blue Pumpkin II* discloses “chang[ing] agent schedules by making them unavailable or changing break times or shift hours and clicking a re/schedule button will immediately determine a new plan or schedule.” The Office Action then alleged that “[c]hanging shift hours in inherently adding an employee one at a time and changing shift hours again is adding another employee, as broadly claimed in claim 5.” Applicants respectfully disagree with this characterization of the teaching of *Blue Pumpkin II*. Changing shift hours for a particular employee is not equivalent to adding an employee, since the number of employees doesn’t change when an employee is moved from one shift to another.

For at least the reason that *Blue Pumpkin I-V (Internet Archive)* fails to disclose, teach or suggest the above-described features, Applicants respectfully submit that *Blue Pumpkin I-V (Internet Archive)* does not anticipate claims 1, 16, and 30. Therefore, Applicants request that the rejection of claims 1, 16, and 30 be withdrawn.

b. Claims 2-6, 9-10, 14-15, 17-19, 22-23, 27, 31-33, 36-37, and 41-42

Since amended claims 1, 16, and 30 are allowable, Applicants respectfully submit that claims 2-6, 9-10, 14-15, 17-19, 22-23, 27, 31-33, 36-37, and 41-42 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 2-6, 9-10, 14-15, 17-19, 22-23, 27, 31-33, 36-37, and 41-42 be withdrawn.

**6. Rejection of Claims 1-6, 9-10, 14-19, 22-23, 27, 30-33, 36-37, and 41-42 under 35 U.S.C. §102 (Public Use or Sale)**

Claims 1-6, 9-10, 14-19, 22-23, 27, 30-33, 36-37, and 41-42 have been rejected under §102(b) as allegedly being barred by public use or sale more than one year prior to the U.S. filing date of the instant application, as evidenced by *Blue Pumpkin I-V (Internet Archive)*. Applicants respectfully submit that the rejection has been overcome by claim amendments made herein. Since the same information (*Blue Pumpkin I-V (Internet Archive)*) serves as the basis for both the §102(b) anticipation rejection and the §102(b) public use/sale rejection, and Applicant has discussed the reasons for allowability of amended claims 1-6, 9-10, 14-19, 22-23, 27, 30-33, 36-37, and 41-42 above in connection with the §102(b) anticipation rejection, the arguments will not be repeated here.

**7. Rejection of Claims 7, 20, and 34 under 35 U.S.C. §103**

Claims 7, 20, and 34 have been rejected under §103(a) as allegedly obvious over *Blue Pumpkin I-V (Internet Archive)* in view of Examiner's Official Notice. Claims 7, 20, and 34 depend from independent claims 1, 16, and 30, which have been amended herein. As discussed above, *Blue Pumpkin I-V (Internet Archive)* does not disclose, teach, or suggest all of the features of amended independent claims 1, 16, and 30. Nor does the Official Notice given in the rejection of claims 7, 20, and 34 cover these newly added features. Thus, claims 7, 20, and 34 are not obvious under the proposed combination, and the rejection should be withdrawn.

**8. Rejection of Claims 8, 21, 26, 31, 35, and 40 under 35 U.S.C. §103**

Claims 8, 21, 26, 31, 35, and 40 have been rejected under §103(a) as allegedly obvious over *Blue Pumpkin I-V (Internet Archive)* in view of Examiner's Official Notice. Claims 8, 21, 26, 31, 35, and 40 depend from independent claims 1, 16, and 30, which have been amended

herein. As discussed above, *Blue Pumpkin I-V (Internet Archive)* does not disclose, teach, or suggest all of the features of amended independent claims 1, 16, and 30. Nor does the Official Notice given in the rejection of claims 8, 21, 26, 31, 35, and 40 cover these newly added features. Thus, claims 8, 21, 26, 31, 35, and 40 are not obvious under the proposed combination, and the rejection should be withdrawn.

9. Newly Added Claims

Applicants submit that new claims 43-49 are allowable over the cited references. Claims 43-49 are allowable over the cited references for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants request the Examiner to enter and allow the above new claims.

### **CONCLUSION**

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 1-3, 7-10, 13-17, 19-23, 25-27, 29-31, and 33-49 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted,

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